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BEFORE THE

SUBCOMMITTEE ON
FEDERAL SERVICES, POST OFFICE AND CIVIL SERVICE
COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ON

LEAVE SHARING
S.1595 AND S.2140

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My name is Kenneth T. Blaylock. I am the National President of the American Federation of Government Employees (AFGE), AFL-CIO. AFGE represents over 700,000 government employees across this country. I am pleased to appear here today and to address S.1595, the Federal Employees Leave Act of 1987, introduced by Senator Peter Domenici (R-NM), and S.2140, The Federal Employees Leave Bank Act of 1988, introduced by Senator David Pryor (D-AR).

The spectre of being confronted with the choice of either holding one's job or tending to a seriously ill spouse or child haunts too many federal employees. It is a cruel choice and a choice that need not be faced if there are appropriate personnel policies in place.

We commend both Senator Domenici and Chairman Pryor for their innovative approaches to this problem and commend the Committee for holding these timely hearings.

Essentially, both of these bills set up a five-year experimental program whereby federal employees would be authorized to contribute their annual leave to other employees who are facing medical or family emergencies when the recipient employees have used up their own leave. In both bills, leave sharing is limited to annual leave; we encourage the Committee to consider broadening the pool of potential donated leave to include sick leave as well as annual leave. This may violate the cost neutrality of the bills, but such costs would likely be quite small given the limited number of employees who would qualify for the leave.

There are other alternatives and approaches to this problem such as those contained in H.R.925, the Parental and Medical

Leave Act introduced by Representative William Clay (D-MO), or S.249, the Parental and Medical Leave Act of 1987 introduced by Senators Christopher Dodd (D-CT) and Arlen Spector (R-PA), which provide mandatory leave without pay for such situations. We see S.1595 and S.2140 as complimentary with such approaches, not as an alternative to H.R. 925 or S.249.

The basic difference between S.1595 and S.2140 is that with S.1595 leave is donated and received on an individual case-by-case basis while with S.2140 employees generically contribute to a leave bank and contributors are eligible to receive the banked leave for medical emergencies. Conceptually, S.1595 is more like charity with employees contributing their leave to those who have the misfortune to need such leave. S.2140, on the other hand, is more like insurance with employees voluntarily contributing a small portion of their leave to cover their own risk of needing such leave. By and large, AFGE favors the approach taken in S.2140.

When we testified in the House on H.R.2487, which is similar to S.1595, we raised several concerns which are also relevant to S.1595. One related to the issue of coercion. Section 6337 of S.1595 explicitly forbids direct or indirect coercion of employees to contribute; however, there are no penalties attached to such action. But on a more fundamental level, whenever the leave recipient is in a managerial position and in the future will have a major say in employee's promotions and job evaluations, there is fertile ground for the appearance, if not the reality, of favoritism. It is difficult to see how this appearance can be avoided unless the legislation explicitly bars the donation of leave to one's

direct supervisors. There also seems to be an existing statutory ban on supervisors accepting items of value from their employees which may create some problems for this legislation.

Another concern is with the design of the program on a case-by-case basis where donors and recipients are linked. It is our understanding the leave donors would be contributing to a particular recipient who qualifies under agency guidelines. The actual mechanics of how this would occur is difficult to envision. Would the recipient be expected to solicit such leave from his friends or co-workers? This could be a demeaning and embarrassing procedure. Would the agency publicize the employee's particular case and accept donations? This could be disturbing to the employee, especially in sensitive illnesses such as AIDS.

Finally, we note that section 6339(a) allows for collective bargaining on the leave transfer program where organizations hold exclusive recognition. We encourage the Committee, if it decides to pursue S.1595, to include language which clarifies that all aspects of the program, including the decision-making process on an employee's eligibility to be a leave recipient, are subject to such negotiations.

While having the leave transfer program of S.1595 in place would be a clear improvement over the status quo for those unfortunate to have such a medical emergency, such employees would still be faced with large uncertainties; for example, "Will enough co-workers contribute?" or "When will the leave run out?"

The approach envisioned by S.2140 addresses most of these concerns. By establishing leave pools, donors and recipients are not directly linked. [In this regard, we do not see the need for section 6335(2).] Problems of coercion and propriety are basically removed.

Also, by establishing that to qualify as a leave recipient an employee must have also been a leave contributor, a strong incentive is created to establish sufficient donations to cover recipient needs. Given sufficient donations, recipients would be relieved of the uncertainty which we noted under S.1595.

Given this general support for the approach taken by S.2140, we offer the following as areas the Committee may want to consider:

- First, the Committee may want to consider a government-wide leave bank instead of agency specific leave banks. A small agency which has a disproportionate share of leave recipients may find the hour standards in section 6336(b)1 insufficient to meet the agency's needs while another agency with few leave recipients may be able to sharply reduce the hour standards thereby setting very different standards of leave recipient eligibility between agencies. A broad principle in insurance is to spread risk as widely as possible. Following this principle in this case would argue for a government-wide approach instead of the agency-specific approach. In addition, consolidating the administration costs may provide some economies of scale to the program.
- Second, while we applaud the inclusion of employee representatives in the administration of the program, if

such representatives are to play a full and meaningful role, provision should be made for "official time" (release time) for such employee representatives who are employed by the agency for their work on the leave bank.

- Third, care needs to be exercised so that employees do not become donors only when they are intending to be recipients. While section 6336(2) clearly intends to establish this criteria, we are not sure if it is sufficient to avoid such adverse selection action.
- Fourth, while this may be stepping beyond the scope of the proposed legislation, there may be merit in considering a mandatory donor program in the context of liberalizing the annual leave program. Our thinking is that if everyone contributed to the bank, the required contribution would likely be quite low, and one would avoid the case of a non-leave donor being denied eligibility even though they had a certifiable medical emergency. But given the overall abysmal state of compensation of federal workers, a cut in such compensation (through a required leave contribution) could not be sanctioned. However, since it appears unlikely that Congress is likely to address the compensation gap directly through increased pay, a case could be made for liberalizing federal leave, and, in that context, a mandatory leave bank contribution could be considered.

Finally, if the Committee would like to use the five-year experimental program as an opportunity to examine a variety of leave-sharing programs, we would strongly recommend that the

Committee simply make leave sharing a mandatory subject for bargaining. In this way, workers and management could sit down and work out such programs to meet the widely varying needs at the federal worksites across the country. Often, legislating a personnel matter on a nationwide basis is less preferable than allowing the affected parties to work out the best solution through collective bargaining.

From a broader perspective, as this country moves toward the twenty-first century and as our economic system becomes more entwined with the world economy, several trends are self-evident. First, there has been a tremendous growth in the two-earner family. No longer can it be assumed that the family unit will have an adult available for full-time health care in the event of a medical or health emergency.

Second, it becomes clear that those countries which provide for a flexible work life which allows for the world of work to be integrated with education, child care, and families have an edge in competitiveness.

For these reasons, we think legislation which meets the intent of S.1595 and S.2140 is both humane and good personnel management.

Thank you.